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REPORT
107–572

IMPROVING ACCESS TO LONG-TERM CARE ACT OF 2002

JULY 15, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 4946]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4946) to amend the Internal Revenue Code to provide health care incentives related to long-term care, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Improving Access to Long-Term Care Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. DEDUCTION FOR PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new subsection:

"SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year by the taxpayer for coverage for the taxpayer and the spouse and dependents of the taxpayer.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2003, 2004, and 2005	25
2006 and 2007	30
2008 and 2009	35
2010 and 2011	40
2012 and thereafter	50.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $20,000 (twice the preceding dollar amount, as adjusted under paragraph (2), in the case of a joint return) the amount which would (but for this subsection) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowed as such excess bears to $20,000 ($40,000 in the case of a joint return).

"(2) ADJUSTMENTS FOR INFLATION.—

"(A) IN GENERAL.—In the case of a taxable year beginning after December 31, 2003, the first $20,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000 (or if such amount is a multiple of $500, such amount shall be rounded to the next highest multiple of $500).

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (1), the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after application of sections 86, 135, 137, 219, 221, 222, and 469.

"(d) LIMITATION BASED ON SUBSIDIZED COVERAGE.—

"(1) IN GENERAL.—Subsection (a) shall not apply to premiums paid for coverage of any individual for any calendar month if—

"(A) for such month such individual is covered by any insurance which is advertised, marketed, or offered as long-term care insurance under any health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, and

"(B) 50 percent or more of the cost of any such coverage (determined under section 4980B) for such month is paid or incurred by the employer.

"(2) PLANS MAINTAINED BY CERTAIN EMPLOYERS.—A health plan which is not otherwise described in paragraph (1)(A) shall be treated as described in such paragraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

"(e) COORDINATION WITH OTHER DEDUCTIONS.—Any amount taken into account under subsection (a) shall not be taken into account in computing the amount allowable as a deduction under section 162(l) or 213(a).

"(f) MARRIED COUPLES MUST FILE JOINT RETURN.—

"(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(2) MARITAL STATUS.—For purposes of paragraph (1), marital status shall be determined in accordance with section 7703.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 is amended by inserting after paragraph (18) the following new item:

"(19) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 223.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 86(b)(2)(A), 135(c)(4)(A), 137(b)(3)(A), 219(g)(3)(A)(ii), and 221(b)(2)(C)(i) are each amended by inserting "223," after "222,".

(2) Section 222(b)(2)(C)(i) is amended by inserting "223," before "911".

(3) Section 469(i)(3)(F)(iii) is amended by striking "and 222" and inserting "222, and 223".

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 223. Premiums on qualified long-term care insurance contracts.
"Sec. 224. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 3. ADDITIONAL PERSONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an exemption of the exemption amount for each qualified family member of the taxpayer.

"(2) PHASE-IN.—In the case of taxable years beginning in calendar years before 2012, the amount of the exemption provided under paragraph (1) shall not exceed the applicable limitation amount determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable limitation amount is—
2003 and 2004	$500
2005 and 2006	1,000
2007 and 2008	1,500
2009 and 2010	2,000
2011	2,500.

"(3) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

"(A) who is—

"(i) the spouse of the taxpayer, or

"(ii) a dependent of the taxpayer with respect to whom the taxpayer is entitled to an exemption under subsection (c),

"(B) who is an individual with long-term care needs during any portion of the taxable year, and

"(C) other than an individual described in section 152(a)(9), who, for more than half of such year, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(4) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—For purposes of this subsection, the term 'individual with long-term care needs' means, with respect to any taxable year, an individual who has been certified, during the 39½-month period ending on the due date (without extensions) for filing the return of tax for the taxable year (or such other period as the Secretary prescribes), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being, for a period which is at least 180 consecutive days—

"(A) an individual who is unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

"(B) an individual who requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

"(5) IDENTIFICATION REQUIREMENT.—No exemption shall be allowed under this subsection to a taxpayer with respect to any qualified family member unless the taxpayer includes, on the return of tax for the taxable year, the name and taxpayer identification of the physician certifying such member. In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

"(6) SPECIAL RULES.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this subsection.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1(f)(6)(A) is amended by striking "151(d)(4)" and inserting "151(e)(4)".

(2) Section 1(f)(6)(B) is amended by striking "151(d)(4)(A)" and inserting "151(e)(4)(A)".

(3) Section 3402(f)(1)(A) is amended by striking "151(d)(2)" and inserting "151(e)(2)".

(4) Section 3402(r)(2)(B) is amended by striking "151(d)" and inserting "151(e)".

(5) Section 6012(a)(1)(D)(ii) is amended—

(A) by striking "151(d)" and inserting "151(e)", and

(B) by striking "151(d)(2)" and inserting "151(e)(2)".

(6) Section 6013(b)(3)(A) is amended by striking "151(d)" and inserting "151(e)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 4. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45C(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

SEC. 5. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.

(a) IN GENERAL.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A."

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 6. ADJUSTMENT OF EMPLOYER CONTRIBUTIONS TO COMBINED BENEFIT FUND TO REFLECT MEDICARE PRESCRIPTION DRUG SUBSIDY PAYMENTS.

(a) IN GENERAL.—Section 9704(b) of the Internal Revenue Code of 1986 (relating to health benefit premium) is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENTS FOR MEDICARE PRESCRIPTION DRUG SUBSIDIES.—The trustees of the Combined Fund shall decrease the per beneficiary premium for each plan year in which a subsidy payment is provided to it under section 1860H of the Social Security Act by the amount which would place the Combined Fund in the same financial position as if such subsidy payment had not been received.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of the Medicare Modernization and Prescription Drug Act of 2002.

SEC. 7. ELIGIBILITY FOR ARCHER MSA'S EXTENDED TO ACCOUNT HOLDERS OF MEDICARE+CHOICE MSA'S.

(a) IN GENERAL.—Subparagraph (B) of section 220(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iii) MEDICARE+CHOICE MSA'S.—In the case of an individual who is covered under an MSA plan (as defined in section 1859(b)(3) of the Social Security Act) which such individual elected under section 1851(a)(2)(B) of such Act—

"(I) such plan shall be treated as a high deductible health plan for purposes of this section,

"(II) subsection (b)(2)(A) shall be applied by substituting '100 percent' for '65 percent' with respect to such individual,

"(III) with respect to such individual, the limitation under subsection (d)(1)(A)(ii) shall be 100 percent of the highest annual deductible limitation under section 1859(b)(3)(B) of the Social Security Act,

"(IV) paragraphs (4), (5), and (7) of subsection (b) and paragraph (1)(A)(iii) of this subsection shall not apply with respect to such individual, and

"(V) the limitation which would (but for this subclause) apply under subsection (b)(1) with respect to such individual for any taxable year shall be reduced (but not below zero) by the amount which would (but for subsection 106(b)) be includible in such individual's gross income for the taxable year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 4946, as amended (the "Improving Access to Long-Term Care Act of 2002") provides tax relief to assist individuals in meeting the long-term care needs of themselves, their spouse, and their dependents.

The bill provides an above-the-line deduction for individuals with certain income levels for the purchase of long-term care insurance. In addition, the bill provides a phased-in additional personal exemption for taxpayers who care for dependents with long-term care needs in their home.

The bill also expands human clinical trials that qualify for the orphan drug credit, adds hepatitis A vaccine to the list of taxable vaccines, makes a conforming change to the coal industry health provisions to reflect the Committee's actions relating to prescrip-

tion drug benefits under Medicare, and allows individuals enrolled in Medicare+Choice MSA plans to contribute to Archer MSAs.

B. Background and Need for Legislation

The provisions approved by the Committee reflect the need for tax relief to assist individuals in meeting their long-term care needs. The provisions also address other health care matters.

C. Legislative History

COMMITTEE ACTION

The Committee on Ways and Means marked up the provisions of the bill on June 19, 2002, and approved the provisions, as amended, on June 19, 2002, by a rollcall vote of 29 yeas to 6 nays (with a quorum being present).

II. EXPLANATION OF THE BILL

A. Above-the-Line Deduction for Long-Term Care Insurance Premiums (sec. 2 of the bill and new sec. 223 of the Code)

PRESENT LAW

Under present law, the Federal income tax treatment of qualified long-term care insurance expenses is similar to the treatment of health insurance expenses.[1] As is the case with health insurance expenses, the Federal income tax treatment of qualified long-term care insurance expenses depends on the individual's circumstances.

Individuals who purchase their own qualified long-term care insurance may claim an itemized deduction for the premiums, but only to the extent that eligible qualified long-term care insurance premiums, together with the individual's medical expenses exceed 7.5 percent of adjusted gross income.[2] The amount of qualified long-term care insurance premiums that may be taken into account in determining the amount allowed as an itemized deduction is limited as follows (for 2002) based on the case of the covered individual: $240 in the case of an individual 40 years old or less; $450 in the case of an individual who is more than 40 but not more than 50; $900 in the case of an individual who is more than 50 but not more than 60; $2,390 in the case of an individual who is more than 60 but not more than 70; and $2,990 in the case of an individual who is more than 70. These dollar limits are indexed for inflation.

Self-employed individuals may deduct a portion of qualified long-term care insurance premiums for the individual and his or her spouse and dependents. The deductible percentage of such premiums is 70 percent in 2002 and 100 percent in 2003 and thereafter.[3] The deduction applies to qualified long-term care insurance premiums, subject to the same dollar limits that apply for purposes of the itemized deduction, described above.

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[1] The main difference between the tax treatment of qualified long-term care insurance and medical insurance is that long-term care insurance canot be offered under a cafeteria plan.

[2] Sec. 213(d).

[3] The deduction for long-term care insurance expenses of self-employed individuals is not available for any month in which the taxpayer is eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse.

Employees can exclude from income 100 percent of qualified long-term care insurance paid for by the employee's employer. There is no dollar limit on this exclusion.[4] Payments made under a qualified long-term care insurance contract are excludable from gross income, subject to a dollar limitation in the case of contracts that provide for payment on a per diem or similar basis.

In order for a long-term care insurance contract to be a qualified long-term care insurance contract: (1) the contract must be guaranteed renewable; (2) the contract generally cannot provide for a cash surrender value or other money that can be paid, assigned, or pledged as a loan or borrowed; (3) all refunds of premiums, and all policyholder dividends or similar amounts, under the contract are to be applied as a reduction in future premiums or to increase future benefits; and (4) the contract must meet certain consumer protection standards.[5] Contracts that provide for per diem or similar payments are subject to additional requirements.

The consumer protection provisions applicable to qualified long-term care insurance contracts require that (1) such contracts meet certain provisions under the model long-term care insurance act and regulations promulgated by the National Association of Insurance Commissioners, (2) the issuer of the contract discloses that the contract is intended to be a qualified policy, and (3) the issuer offer the policyholder a nonforfeiture provision meeting certain requirements.

REASONS FOR CHANGE

Present law provides favorable tax treatment for the purchase of qualified long-term care insurance. The present-law provisions were enacted to provide incentives for individuals to take financial responsibility for the long-term care needs of themselves and their dependents. The Committee believes that further incentives and tax relief are appropriate to encourage individuals to purchase qualified long-term care insurance.

EXPLANATION OF PROVISION

The provision provides an above-the-line deduction for a percentage of qualified long-term care insurance premiums up to the present-law dollar limitations that apply under the itemized deduction.[6] The deduction is not available to an individual for any month in which the individual is covered under a long-term care insurance contract 50 percent or more of the cost of which is paid or incurred by the individual's employer (or the employer of the individual's spouse). In determining whether the 50-percent threshold is met, all plans of related employers providing long-term care insurance in which the individual participates are treated as a single plan.

The otherwise allowable deduction is phased out for taxpayers with modified adjusted gross income between $20,000 and $40,000 ($40,000 and $80,000 in the case of married taxpayers filing a joint

[4] Unlike health insurance, long-term care insurance cannot be provided under a cafeteria plan.
[5] Sec. 7702B.
[6] The deduction only applies to premiums on qualified long-term care insurance contracts; it does not apply to long-term care expenses.

return).[7] The $20,000 and $40,000 starting points for the phase-out range are indexed for inflation, rounded to the nearest $1,000.

The deductible percentage of qualified long-term care insurance premiums is 25 percent in 2003, 2004, and 2005, 30 percent in 2006 and 2007, 35 percent in 2008 and 2009, 40 percent in 2010 and 2011, and 50 percent in 2012 and thereafter.

No amount taken into account in computing the deduction may be taken into account in determining the deduction for health insurance expenses of self-employed individuals or the itemized deduction for medical expenses. Married taxpayers are required to file a joint return in order to claim the deduction.[8] The Secretary is authorized to prescribe such regulations as may be appropriate to carry out the provision, including appropriate reporting requirements for employers.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2002.

B. Provide an Additional Personal Exemption to Home Caregivers of Family Members (sec. 3 of the bill and sec. 151 of the Code)

PRESENT LAW

In determining taxable income, taxpayers are entitled to a personal exemption deduction for the taxpayer, his or her spouse, and each dependent. To qualify as a dependent under present law, an individual must: (1) be (a) a specified relative or (b) have as his or her principal place of abode for the taxable year the home of the taxpayer and be a member of the taxpayer's household;[9] (2) be a citizen or resident of the U.S. or resident of Canada or Mexico; (3) not be required to file a joint tax return with his or her spouse; (4) have gross income below the personal exemption amount if not the taxpayer's child; and (5) receive over half of his or her support from the taxpayer.[10]

The personal exemption amount for 2002 is $3,000. Personal exemptions are phased-out by two percentage points for each $2,500 ($1,250 if married filed separately) or fraction thereof by which adjusted gross income exceeds certain thresholds based on filing status. For 2002, the thresholds are $137,300 for single filers,

[7] Modified adjusted gross income means adjusted gross income determined without regard to the deduction provided by the provision and the exclusion for certain foreign earned income (sec. 911), income from Guam, American Samoa, or the Northern Mariana Islands (sec. 931), and income from Puerto Rico (sec. 933). Modified adjusted gross income is calculated after the determination of the amount of Social Security benefits includible in gross income (sec. 86), the exclusion for certain interest on education savings bonds (sec. 135), the exclusion for adoption assistance (sec. 137), the deduction for contributions to individual retirement arrangements (sec. 219), the deduction for student loan interest (sec. 221), the deduction for certain education expenses (sec. 222), and the deduction for passive activity losses (sec. 469).

[8] The rules of sec. 7703 would apply in determining married status for this purpose.

[9] For purposes of this rule, the taxpayer must maintain the household in which the taxpayer and the individual reside. The taxpayer is considered to maintain the household if over one-half of the support of the household is provided by the taxpayer (or, if married, the taxpayer and his or her spouse).

[10] If no one person contributes over half the support of an individual, the taxpayer is treated as meeting the support requirement if: (a) over half the support is received from persons each of whom, but for the fact that he or she did not provide over half such support, could claim the individual as a dependent; (b) the taxpayer contributes over 10 percent of such support; and (c) the other caregivers who provide over 10 percent of the support file written declarations stating that they will not claim the individual as a dependent.

$206,000 for joint filers, $171,650 for heads of household, and $103,000 for married taxpayers filing separate returns.[11] The exemption amount and the dollar thresholds for the phase-out are indexed for inflation.

Present law provides favorable tax treatment for the purchase of qualified long-term care insurance and for individuals with qualified long-term care expenses.

REASONS FOR CHANGE

Present law provides favorable tax treatment for long-term care insurance and expenditures on long-term care services, but does not provide similar tax relief for in-home care, i.e., for individuals who care for family members or other dependents in their home. The Committee understands that in-home care may be preferable in some cases, and that individuals who care for family members or other dependents with special needs often incur additional household expenses. The Committee believes it appropriate to provide additional tax relief in such cases.

EXPLANATION OF PROVISION

The provision allows a phased-in additional personal exemption for each qualified family member with long-term care needs. The exemption amount is limited to $500 for 2003 and 2004, $1,000 for 2005 and 2006, $1,500 for 2007 and 2008, and $2,000 for 2009 and 2010, $2,500 for 2011, and is equal to the regularly applicable exemption amount for 2012 and thereafter.

A qualified family member means an individual with long-term care needs who (1) is the spouse of the taxpayer or a dependent of the taxpayer or the taxpayer's spouse with respect to whom the taxpayer is allowed to claim a personal exemption, and (2) satisfies a residency requirement. In the case of an individual who is a dependent by reason of living in the taxpayer's household for the entire taxable year, the residency requirement is the same as that under the dependency exemption. In the case of other dependents, the residency requirement is satisfied if, for more than one half of the taxable year, the individual has as his or her principal place of abode the home of the taxpayer and is a member of the taxpayer's household. As under present law, a taxpayer would be treated as maintaining a household for a period only if the taxpayer (or, if married, the taxpayer and his or her spouse) furnishes more than one-half the cost of maintaining the household for the entire year.

An individual is considered to have long-term care needs if he or she has been certified by a licensed physician as being unable, for a period of at least 180 consecutive days,[12] to perform at least two activities of daily living ("ADLs")[13] without substantial assistance from another individual due to a loss of functional capacity. Substantial assistance includes both hands-on assistance (that is, the

[11] For taxable years beginning in 2006 and 2007, the otherwise applicable personal exemption phase-out is reduced by one-third and for taxable years beginning in 2008 and 2009, the otherwise applicable phase-out is reduced by two-thirds. The personal exemption phaseout is repealed for taxable years beginning after December 31, 2009, and reinstated for taxable years beginning after December 31, 2010.

[12] Some portion of the period must be within the taxable year.

[13] As under the present-law rules relating to long-term care, ADLs are defined as eating, toileting, transferring, bathing, dressing, and continence.

physical assistance of another person without which the individual would be unable to perform the ADL) and stand-by assistance (that is, the presence of another person within arm's reach of the individual that is necessary to prevent, by physical intervention, injury to the individual when performing the ADL).

As an alternative to the two-ADL test described above, an individual is considered to have long-term care needs if he or she has been certified by a licensed physician as, for at least 180 consecutive days: (1) requiring substantial supervision to be protected from threats to health and safety due to severe cognitive impairment and (2) being unable to perform at least one ADL or to engage in age appropriate activities as determined under regulations prescribed by the Secretary of the Treasury in consultation with the Secretary of Health and Human Services.

In all cases, the required certification must be made during the 39½ month period ending on the due date (without extensions) for filing the return for the taxable year (or such other period as the Secretary of the Treasury may prescribe).

Married couples may not claim the additional personal exemption unless they file a joint return. An individual who is legally separated from his or her spouse is not considered married. In addition, married individuals who live apart during the last six months of the year are not considered married if certain requirements are satisfied.

The taxpayer is required to provide a correct physician identification number (e.g., the Unique Physician Identification Number that is currently required for Medicare billing) for the certifying physician. Failure to provide correct physician identification numbers is subject to the mathematical error rule. Under that rule, the IRS may summarily assess additional tax due without sending the individual a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2002.

C. EXPAND HUMAN CLINICAL TRIALS EXPENSES QUALIFYING FOR THE ORPHAN DRUG TAX CREDIT (SEC. 4 OF THE BILL AND SEC. 45C OF THE CODE)

PRESENT LAW

Taxpayers may claim a 50-percent credit for expenses related to human clinical testing of drugs for the treatment of certain rare diseases and conditions, generally those that afflict less than 200,000 persons in the United States. Qualifying expenses are those paid or incurred by the taxpayer after the date on which the drug is designated as a potential treatment for a rare disease or disorder by the Food and Drug Administration ("FDA") in accordance with section 526 of the Federal Food, Drug, and Cosmetic Act.

REASONS FOR CHANGE

The Committee understands that approval for human clinical testing and designation as a potential treatment for a rare disease or disorder require separate reviews within the FDA. As a result,

in some cases, a taxpayer may be permitted to begin human clinical testing prior to a drug being designated as a potential treatment for a rare disease or disorder. If the taxpayer delays human clinical testing in order to obtain the benefits of the orphan drug tax credit, which currently may be claimed only for expenses incurred after the drug is designated as a potential treatment for a rare disease or disorder, valuable time will have been lost and Congress's original intent in enacting the orphan drug tax credit will have been partially thwarted. Because taxpayers generally seek designation of a potential drug as a treatment for a rare disease or disorder at the time they seek approval to clinically test such drugs, the Committee believes it is appropriate to make such expenses related to human clinical testing that the taxpayer incurs prior to FDA designation eligible for the orphan drug tax credit to help speed cures to such insidious diseases.

EXPLANATION OF PROVISION

The bill expands qualifying expenses to include those expenses related to human clinical testing incurred after the date on which the taxpayer files an application with the FDA for designation of the drug under section 526 of the Federal Food, Drug, and Cosmetic Act as a potential treatment for a rare disease or disorder. As under present law, the credit may only be claimed for such expenses related to drugs designated as a potential treatment for a rare disease or disorder by the FDA in accordance with section 526 of such Act.

EFFECTIVE DATE

The provision is effective for expenditures paid or incurred after the date of enactment.

D. ADD VACCINES AGAINST HEPATITIS A TO THE LIST OF TAXABLE VACCINES (SEC. 5 OF THE BILL AND SEC. 4131 OF THE CODE)

PRESENT LAW

A manufacturer's excise tax is imposed at the rate of 75 cents per dose (sec. 4131) on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, varicella (chicken pox), rotavirus gastroenteritis, and streptococcus pneumoniae. The tax applied to any vaccine that is a combination of vaccine components equals 75 cents times the number of components in the combined vaccine.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. This program provides a substitute Federal, "no fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers. All persons immunized after September 30, 1988, with covered vaccines must pursue compensation under this Federal program before bringing civil tort actions under State law.

REASONS FOR CHANGE

The Committee is aware that the Centers for Disease Control and Prevention have recommended that children in 17 highly endemic States be inoculated with a hepatitis A vaccine. The population of children in the affected States exceeds 20 million. Several of the affected States mandate childhood vaccination against hepatitis A. The Committee is aware that the Advisory Commission on Childhood Vaccines has recommended that the vaccine excise tax be extended to cover vaccines against hepatitis A. For these reasons, the Committee believes it is appropriate to include vaccines against hepatitis A as part of the Vaccine Injury Compensation Program. Making the hepatitis A vaccine taxable is a first step.[14] In the unfortunate event of an injury related to this vaccine, families of injured children would be eligible for the no-fault arbitration system established under the Vaccine Injury Compensation Program rather than going to Federal Court to seek compensatory redress.

EXPLANATION OF PROVISION

The committee bill adds any vaccine against hepatitis A to the list of taxable vaccines.

EFFECTIVE DATE

The provision is effective for vaccines sold beginning on the first day of the first month beginning more than four weeks after the date of enactment.

E. ADJUSTMENT OF EMPLOYER CONTRIBUTIONS TO COMBINED BENEFIT FUND TO REFLECT MEDICARE PRESCRIPTION DRUG BENEFIT (SEC. 6 OF THE BILL AND SEC. 9704 OF THE CODE)

PRESENT LAW

Under present law, certain persons are required to pay premiums to the United Mine Workers of America Combined Benefit Fund (the "Combined Fund") established to provide health benefits for certain coal industry workers.

REASONS FOR CHANGE

The Committee believes it appropriate to modify the premium requirements under the Combined Fund to reflect the Medicare prescription drug benefits adopted by the Committee in H.R. 4954, the "Medicare Modernization and Prescription Drug Act of 2002" on June 18, 2002.

EXPLANATION OF PROVISION

The provision provides that the trustees of the Combined Fund are to decrease otherwise provided premiums for each year in which a subsidy payment is provided in the Medicare Modernization and Prescription Drug Act of 2002 in order to place the Fund

[14] The Committee recognizes that, to become covered under the Vaccine Injury Compensation Program, the Secretary of Health and Human Services also must list the hepatitis A vaccine on the Vaccine Injury Table.

in the same financial position as if the subsidy payment had not been received.

EFFECTIVE DATE

The provision applies to plan years beginning after the date of enactment of the Medicare Modernization and Prescription Drug Act of 2002.

F. MODIFICATIONS TO MEDICARE+CHOICE MSAS (SEC. 7 OF THE BILL AND SEC. 220 OF THE CODE)

PRESENT LAW

In general

Present law provides for favorable tax treatment for Archer medical savings accounts ("MSAs") and Medicare+Choice MSAs.[15]

Archer MSAs

Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. In general, eligible individuals are self-employed individuals covered by a high deductible health plan[16] and employees covered under a high deductible health plan of a small employer.[17] The maximum contribution that can be made to an Archer MSA for a year is 65 percent of the deductible under the high deductible plan in the case of individual coverage, and 75 percent of the deductible in the case of family coverage. An eligible individual or the employer of an eligible individual may contribute to an Archer MSA, but not both.

Earnings on amounts in an Archer MSA are not currently includible in income. Distributions from an Archer MSA for medical expenses of the MSA account holder and his or her spouse or dependents are not includible in income. For this purpose, medical expenses are defined as under the itemized deduction for medical expenses, except that medical expenses do not include any insurance premiums other than premiums for long-term care insurance, continuation coverage ("COBRA coverage"), or premiums for coverage while an individual is receiving unemployment compensation. Distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

Individuals who are covered by Medicare are not eligible for an Archer MSA, but may be eligible for a Medicare+Choice MSA as described below.

The number of Archer MSAs that may be established is limited. In general, no new Archer MSAs can be established after 2003.

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[15] In general, an MSA is a trust or custodial account created exclusively for the benefit of the account holder and that meets certain other requirements. The trustee of an MSA can be a bank, insurance company, or other person as specified by the Secretary of the Treasury.

[16] A high deductible health plan is a plan that meets certain requirements with respect to the amount of the annual deductible and out-of-pocket limitations.

[17] In order to be eligible for an MSA, the individual generally cannot be covered under a health plan other than the high deductible health plan.

Medicare+Choice MSAs

Under present law, the Medicare program includes a variety of health plan options called Medicare+Choice. One of the Medicare+Choice options is a test program called the Medicare+Choice medical savings account ("MSA") plan. The Medicare+Choice MSA plan consists of two parts, a Medicare+Choice health policy and a Medicare+Choice MSA.

Individuals who elect the Medicare+Choice MSA plan select a policy from a commercial insurer. The policy must be designed to work as part of the Medicare+Choice MSA plan and must be approved by Medicare. The premium for the policy is paid for by Medicare.

In addition, individuals who elect the Medicare+Choice MSA plan establish a Medicare+Choice MSA with a bank or other institution that is registered with Medicare to set up Medicare+Choice MSAs. The Secretary of Health and Human Services makes a specified contribution directly into a Medicare+Choice MSA designated by such individual based on the policy the individual is covered by and certain other factors. Only contributions by the Secretary of Health and Human Services can be made to a Medicare+Choice MSA. Such contributions are not included in the taxable income of Medicare+Choice MSA holder.

Income earned on amounts held in a Medicare+Choice MSA is not currently includible in taxable income. Withdrawals from a Medicare+Choice MSA are excludable from taxable income if used for the qualified medical expenses of the account holder. Withdrawals that are not used for the qualified medical expenses of the account holder are includible in income and may be subject to an additional tax (described below).

Distributions from a Medicare+Choice MSA that are used to pay the qualified medical expenses of the account holder are excludable from taxable income regardless of whether the account holder is enrolled in the Medicare+Choice MSA plan at the time of the distribution. Qualified medical expenses of the account holder are generally defined as under the rules relating to the itemized deductions for medical expenses. However, for this purpose, qualified medical expenses do not include any insurance premiums other than premiums for long-term care insurance, COBRA coverage, or premium for coverage while an individual is receiving unemployment compensation. In addition, expenses of the taxpayer's spouse and dependents are not qualified medical expenses.

Distributions for purposes other than qualified medical expenses are includible in taxable income. An additional tax of 50 percent applies to the extent the total distributions for purposes other than qualified medical expenses in a taxable year exceed the amount by which the value of Medicare+Choice MSA as of December 31 of the preceding taxable year exceeds 60 percent of the deductible of the plan under which the individual is covered. The additional tax does not apply to distributions on account of the disability or death of the account holder.

REASONS FOR CHANGE

The Committee believes it appropriate to increase the attractiveness of the Medicare+Choice MSA program by allowing individuals in such program to be eligible for Archer MSAs.

EXPLANATION OF PROVISION

The provision treats policies selected as part of the Medicare+Choice MSA plan as high deductible plans for purposes of Archer MSAs. Thus, individuals who have a Medicare+Choice MSA plan also are eligible individuals for Archer MSA purposes (such individuals are referred to as "Medicare-eligible individuals"). The maximum deductible contribution that may be made to an Archer MSA with respect to a Medicare-eligible individual is 100 percent of the deductible under the Medicare+Choice MSA policy.

The proposal also allows employers or former employers of Medicare-eligible individuals to make contributions to an Archer MSA on behalf of such individuals. Total contributions can not exceed the deductible amount.

The cap on Archer MSAs does not apply to MSAs established by persons in Medicare+Choice. As under present law, the Archer MSA program, including the program as applied to Medicare-eligible individuals, expires at the end of 2003.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2002.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 4946.

MOTION TO REPORT THE BILL

The bill, H.R. 4946, as amended, was ordered favorably reported by a rollcall vote of 29 yeas to 6 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel		X	
Mr. Crane				Mr. Stark		X	
Mr. Shaw	X			Mr. Matsui		X	
Mrs. Johnson	X			Mr. Coyne			
Mr. Houghton	X			Mr. Levin	X		
Mr. Herger	X			Mr. Cardin	X		
Mr. McCrery	X			Mr. McDermott		X	
Mr. Camp	X			Mr. Kleczka	X		
Mr. Ramstad	X			Mr. Lewis (GA)		X	
Mr. Nussle	X			Mr. Neal			
Mr. Johnson	X			Mr. McNulty			
Ms. Dunn	X			Mr. Jefferson			
Mr. Collins	X			Mr. Tanner	X		
Mr. Portman	X			Mr. Becerra		X	
Mr. English	X			Mrs. Thurman	X		
Mr. Watkins	X			Mr. Doggett			
Mr. Hayworth	X			Mr. Pomeroy	X		
Mr. Weller	X						

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hulshof	X						
Mr. McInnis	X						
Mr. Lewis (KY)	X						
Mr. Foley	X						
Mr. Brady	X						
Mr. Ryan	X						

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. McCrery, which would provide retirees with additional flexibility in obtaining health care for retirees and their families by allowing employers or former employers to make contributions to an Archer MSA on behalf of a Medicare eligible individual, was agreed to by a roll call vote of 23 yeas to 12 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel		X	
Mr. Crane				Mr. Stark		X	
Mr. Shaw	X			Mr. Matsui		X	
Mrs. Johnson	X			Mr. Coyne			
Mr. Houghton	X			Mr. Levin		X	
Mr. Herger	X			Mr. Cardin		X	
Mr. McCrery	X			Mr. McDermott		X	
Mr. Camp	X			Mr. Kleczka		X	
Mr. Ramstad	X			Mr. Lewis (GA)		X	
Mr. Nussle	X			Mr. Neal			
Mr. Johnson	X			Mr. McNulty			
Ms. Dunn	X			Mr. Jefferson			
Mr. Collins	X			Mr. Tanner		X	
Mr. Portman	X			Mr. Becerra		X	
Mr. English	X			Mrs. Thurman		X	
Mr. Watkins	X			Mr. Doggett			
Mr. Hayworth	X			Mr. Pomeroy		X	
Mr. Weller	X						
Mr. Hulshof	X						
Mr. McInnis	X						
Mr. Lewis (KY)	X						
Mr. Foley	X						
Mr. Brady	X						
Mr. Ryan	X						

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 4946 as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2003–2007:

ESTIMATED REVENUE EFFECTS OF H.R. 4946,
THE "IMPROVING ACCESS TO LONG-TERM CARE ACT OF 2002,"
AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2003 - 2007

[Millions of Dollars]

Provision	Effective	2003	2004	2005	2006	2007	2003-07
1. Provide an above-the-line deduction for long-term care insurance expenses for which the taxpayer pays at least 50% of the cost of coverage (25% in 2003 through 2005, 30% in 2006 and 2007, 35% in 2008 and 2009, 40% in 2010 and 2011, and 50% in 2012 and thereafter with AGI phaseout of $40,000 to $80,000 for joint filers and $20,000 to $40,000 for other filers) [1]	tyba 12/31/02	-19	-130	-140	-160	-199	-648
2. Provide an additional personal exemption to home caregivers of dependents with long-term care needs ($500 in 2003 and 2004, $1,000 in 2005 and 2006, $1,500 in 2007 and 2008, $2,000 in 2009 and 2010, $2,500 in 2011, and a full personal exemption, as indexed, in 2012 and thereafter)	tyba 12/31/02	-79	-108	-176	-184	-239	-787
3. Expand human clinical trials expenses qualifying for the orphan drug tax credit	epoia DOE	-13	-20	-22	-24	-26	-105
4. Add vaccines against Hepatitis A to the list of taxable vaccines	[2]	5	8	9	9	9	39
5. Adjustment of employer contributions to Combined Benefit Fund to reflect Medicare prescription drug subsidy payments [3]	[4]	*No Revenue Effect*					
6. Allow individual and employer contributions to Archer MSAs for individuals enrolled in Medicare+Choice MSA plans	tyba 12/31/02	*Negligible Revenue Effect*					
NET TOTAL		**-106**	**-250**	**-329**	**-359**	**-455**	**-1,501**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
DOE = date of enactment
epoia = expenses paid or incurred after
tyba = taxable years beginning after

[1] Estimate assumes that the AGI phaseouts for the deduction would be indexed to changes in the Consumer Price Index, rounded to the nearest $1,000.
[2] Effective for vaccines sold beginning the first day of the first month beginning four weeks after the date of enactment.
[3] Estimate provided by the Congressional Budget Office. This provision would have no revenue effect because there is no Medicare prescription drug program under present law. The Congressional Budget Office estimates that, if the Medicare prescription drug program in H.R. 4954 were enacted concurrently with H.R. 4946, this provision would result in a total revenue loss of $92 million over fiscal years 2005 through 2012.
[4] Effective for plan years beginning after the date of enactment of the Medicare Modernization and Prescription Drug Act of 2002.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority (as detailed in the statement by the Congressional Budget Office ("CBO"); see Part IV.C., below). The Committee further states that the revenue reducing income tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 25, 2002.

Hon. William "Bill" M. Thomas,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4946, the Improving Access to Long-Term Care Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Andrew Shaw (for federal revenues), and Alexis Ahlstrom (for federal spending).

Sincerely,

Steven M. Lieberman
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4946—Improving Access to Long-Term Care Act of 2002

Summary: H.R. 4946 would provide an above-the-line deduction for a percentage of premiums for eligible long-term care insurance contracts. The deduction would be available for eligible long-term care insurance that covers the taxpayer, the taxpayer's spouse or the taxpayer's dependents and for which the taxpayer pays at least 50 percent of the cost of coverage. The deduction would phase out for single taxpayers with adjusted gross income (AGI) between $20,000 and $40,000 a year and for married taxpayers filing jointly with AGI between $40,000 and $80,000.

H.R. 4946 would also allow an additional personal exemption for taxpayers who provide home care to dependents with long-term care needs. This additional exemption would be phased in starting at $500 in 2003 and 2004, increasing in $500 increments every other year thereafter until it reaches $2,500 in 2011. Starting in 2012, a full personal exemption would apply.

In addition, the bill would add vaccines against Hepatitis A to the list of taxable vaccines, expand human clinical trial expenses qualifying for the orphan drug tax credit, and adjust employer con-

tributions to the Combined Benefit Fund to reflect Medicare payments for prescription drug subsidies.

The Joint Committee on Taxation (JCT) and CBO estimate that enacting H.R. 4946 would reduce revenues by $106 million in 2003, $1.5 billion over the 2003–2007 period, and $5.5 billion over the 2003–2012 period. CBO estimates that the bill would increase direct spending by $5 million in 2003, $34 million over the 2003–2007 period, and $70 million over the 2003–2012 period. Because the bill would affect revenues and direct spending, pay-as-you-go procedures would apply. JCT and CBO have determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4946 is shown in the following table.

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
CHANGES IN REVENUES						
Estimated Revenues	0	−106	−250	−329	−359	−455
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	5	7	7	7	7
Estimated Outlays	0	5	7	7	7	7

Basis of estimate

Revenues

All revenue estimates for H.R. 4946 were provided by JCT except for the provision adjusting employer contributions to the Combined Benefit Fund to reflect Medicare prescription drug subsidy payments. CBO estimates the revenue effect of that provision, by itself, would be zero because Medicare does not have an outpatient prescription drug benefit under current law. However, H.R. 4946, if enacted concurrently with or after the establishment of a Medicare prescription drug benefit, would decrease revenues in the form of health care premiums paid to the Combined Benefit Fund by certain coal companies.

The Combined Benefit Fund was created in 1992 to provide health benefits to retired coal industry workers. Under current law, the premiums coal companies pay to the fund on behalf of retired workers can be increased in the event that Medicare reduces its benefits to ensure that the same level of benefits is maintained. In contrast, there is not mechanism to decrease premiums if Medicare adds benefits. This provision would require the fund to reduce the premiums that coal companies pay to the fund by the amount the fund would receive from Medicare for the prescription drug benefit. The estimate assumes that the fund would make arrangements with Medicare to enroll all Medicare-eligible fund participants in the drug benefit and that the fund would pay the premiums and cost-sharing associated with participation in that plan.

CBO estimates the cost of implementing this provision in conjunction with the prescription drug benefit specified in H.R. 4954 (as ordered reported by the Committee on Ways and Means on June 19) would be $35 million over the 2003–2007 period and $92 million over the 2003–2012 period. (Those estimates are not in-

cluded in the above table, which provides estimated changes in revenues relative to current law only.)

Direct Spending

The Hepatitis A vaccine tax provision would require vaccine buyers to pay an excise tax on each dose purchased. Medicaid is a major purchaser of vaccines through the Vaccines for Children program, administered through the Centers for Disease Control and Prevention (CDC). CBO assumes that Medicaid purchases approximately half of the Hepatitis A vaccines sold annually. Based on estimates provided by JCT, CBO expects that implementing H.R. 4946 would cost the Medicaid program about $3 million in 2003 and $48 million over the 2003–2012 period.

Receipts from the tax would go to the Vaccine Injury Compensation Fund (VICF), which is administered by the Health Resources and Services Administration (HRSA). The fund uses tax revenues to pay compensation to claimants injured by vaccines. Once a vaccine becomes taxable, injuries attributed to its use become compensable through this fund. Based on information provided by HRSA and CDC, we assume there will be few compensable claims related to the Hepatitis A vaccine. CBO estimates the provision would increase outlays from the VICF by $2 million in 2003 and $22 million over the 2003–2012 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in receipts	0	−106	−250	−329	−359	−455	−498	−607	−662	−923	−1,297
Changes in outlays	0	5	7	7	7	7	7	7	7	7	8

Intergovernmental and private-sector impact: JCT and CBO have determined that the bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal revenues: Andrew Shaw; Federal outlays: Alexis Ahlstrom; impact on state, local, and tribal governments: Susan Sieg Tompkins; impact on the private sector: Stuart Hagan.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis.

Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Com-

mittee advises that it was a result of the Committee's oversight review concerning the tax burden on individual taxpayers and tax-related health issues that the Committee concluded that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises . . . "), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, and tribal governments.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter A—Determination of Tax Liability

* * * * * * *

PART I—TAX ON INDIVIDUALS

* * * * * * *

SEC. 1. TAX IMPOSED.

(a) * * *

* * * * * * *

(f) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

(1) * * *

* * * * * * *

(6) ROUNDING.—

(A) IN GENERAL.—If any increase determined under paragraph (2)(A), section 63(c)(4), section 68(b)(2) or section [151(d)(4)] *151(e)(4)* is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

(B) TABLE FOR MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subparagraph (A) (other than with respect to sections 63(c)(4) and [151(d)(4)(A)] *151(e)(4)(A)*) shall be applied by substituting "$25" for "$50" each place it appears.

* * * * * * *

PART IV—CREDITS AGAINST TAX

* * * * * * *

Subpart D—Business Related Credits

* * * * * * *

SEC. 45C. CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS.

(a) * * *

(b) QUALIFIED CLINICAL TESTING EXPENSES.—For purposes of this section—

(1) * * *

(2) CLINICAL TESTING.—

(A) * * *

* * * * * * *

(C) TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed.

* * * * * * *

Subchapter B—Computation of Taxable Income

* * * * * * *

PART I—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

* * * * * * *

SEC. 62. ADJUSTED GROSS INCOME DEFINED.

(a) GENERAL RULE.—For purposes of this subtitle, the term "adjusted gross income" means, in the case of an individual, gross income minus the following deductions:

(1) * * *

* * * * * * *

(19) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 223.

* * * * * * *

PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

* * * * * * *

SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) * * *

(b) TAXPAYERS TO WHOM SUBSECTION (a) Applies.—

(1) * * *

(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term "modified adjusted gross income" means adjusted gross income—

(A) determined without regard to this section and sections 135, 137, 221, 222, *223,* 911, 931, and 933, and

* * * * * * *

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

* * * * * * *

SEC. 135. INCOME FROM UNITED STATES SAVINGS BONDS USED TO PAY HIGHER EDUCATION TUITION AND FEES.

(a) * * *

* * * * * * *

(c) DEFINITIONS.—For purposes of this section—

(1) * * *

* * * * * * *

(4) MODIFIED ADJUSTED GROSS INCOME.—The term "modified adjusted gross income" means the adjusted gross income of the taxpayer for the taxable year determined—

(A) without regard to this section and sections 137, 221, 222, *223,* 911, 931, and 933, and

* * * * * * *

SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

(a) * * *

(b) LIMITATIONS.—

(1) * * *

* * * * * * *

(3) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of paragraph (2), adjusted gross income shall be determined—

(A) without regard to this section and sections 221, 222, *223,* 911, 931, and 933, and

* * * * * * *

PART V—DEDUCTIONS FOR PERSONAL EXEMPTIONS

* * * * * * *

SEC. 151. ALLOWANCE OF DEDUCTIONS FOR PERSONAL EXEMPTIONS.

(a) * * *

* * * * * * *

(d) ADDITIONAL EXEMPTION FOR DEPENDENTS WITH LONG-TERM CARE NEEDS IN TAXPAYER'S HOME.—

(1) IN GENERAL.—Except as provided in paragraph (2), an exemption of the exemption amount for each qualified family member of the taxpayer.

(2) PHASE-IN.—In the case of taxable years beginning in calendar years before 2012, the amount of the exemption provided under paragraph (1) shall not exceed the applicable limitation amount determined in accordance with the following table:

For taxable years beginning in calendar year—	*The applicable limitation amount is—*
2003 and 2004	*$500*
2005 and 2006	*1,000*
2007 and 2008	*1,500*
2009 and 2010	*2,000*
2011	*2,500.*

(3) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term "qualified family member" means, with respect to any taxable year, any individual—

(A) who is—

(i) the spouse of the taxpayer, or

(ii) a dependent of the taxpayer with respect to whom the taxpayer is entitled to an exemption under subsection (c),

(B) who is an individual with long-term care needs during any portion of the taxable year, and

(C) other than an individual described in section 152(a)(9), who, for more than half of such year, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

(4) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—For purposes of this subsection, the term "individual with long-term care needs" means, with respect to any taxable year, an individual who has been certified, during the 39½-month period ending on the due date (without extensions) for filing the return of tax for the taxable year (or such other period as the Secretary prescribes), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being, for a period which is at least 180 consecutive days—

(A) an individual who is unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

(B) an individual who requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

(5) IDENTIFICATION REQUIREMENT.—No exemption shall be allowed under this subsection to a taxpayer with respect to any qualified family member unless the taxpayer includes, on the return of tax for the taxable year, the name and taxpayer identification of the physician certifying such member. In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

(6) SPECIAL RULES.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this subsection.

[(d)**]** *(e)* EXCEPTION AMOUNT.—For purposes of this section—

(1) * * *

* * * * * * *

[(e)] *(f)* IDENTIFYING INFORMATION REQUIRED.—No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.

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PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

Sec. 211. Allowance of deductions.

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[Sec. 223. Cross reference.]
Sec. 223. Premiums on qualified long-term care insurance contracts.
Sec. 224. Cross reference.

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SEC. 219. RETIREMENT SAVINGS.

(a) * * *

* * * * * * *

(g) LIMITATION ON DEDUCTION FOR ACTIVE PARTICIPANTS IN CERTAIN PENSION PLANS.—

(1) * * *

* * * * * * *

(3) ADJUSTED GROSS INCOME; APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection—

(A) ADJUSTED GROSS INCOME.—Adjusted gross income of any taxpayer shall be determined—

(i) * * *

(ii) without regard to sections 135, 137, 221, 222, *223,* and 911 or the deduction allowable under this section.

* * * * * * *

SEC. 220. ARCHER MSAS.

(a) * * *

* * * * * * *

(c) DEFINITIONS.—For purposes of this section—

(1) * * *

(2) HIGH DEDUCTIBLE HEALTH PLAN.—

(A) * * *

(B) SPECIAL RULES.—

(i) * * *

* * * * * * *

(iii) MEDICARE+CHOICE MSA'S.—In the case of an individual who is covered under an MSA plan (as defined in section 1859(b)(3) of the Social Security Act) which such individual elected under section 1851(a)(2)(B) of such Act—

(I) such plan shall be treated as a high deductible health plan for purposes of this section,

(II) subsection (b)(2)(A) shall be applied by substituting "100 percent" for "65 percent" with respect to such individual,

(III) with respect to such individual, the limitation under subsection (d)(1)(A)(ii) shall be 100 percent of the highest annual deductible limitation under section 1859(b)(3)(B) of the Social Security Act,

(IV) paragraphs (4), (5), and (7) of subsection (b) and paragraph (1)(A)(iii) of this subsection shall not apply with respect to such individual, and

(V) the limitation which would (but for this subclause) apply under subsection (b)(1) with respect to such individual for any taxable year shall be reduced (but not below zero) by the amount which would (but for subsection 106(b)) be includible in such individual's gross income for the taxable year.

* * * * * * *

SEC. 221. INTEREST ON EDUCATION LOANS.

(a) * * *

(b) MAXIMUM DEDUCTION.—

(1) * * *

(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(A) * * *

* * * * * * *

(C) MODIFIED ADJUSTED GROSS INCOME.—The term "modified adjusted gross income" means adjusted gross income determined—

(i) without regard to this section and sections 222, *223,* 911, 931, and 933, and

* * * * * * *

SEC. 222. QUALIFIED TUITION AND RELATED EXPENSES.

(a) * * *

(b) DOLLAR LIMITATIONS.—

(1) * * *

(2) APPLICABLE DOLLAR LIMIT.—

(A) * * *

* * * * * * *

(C) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined—

(i) without regard to this section and sections *223,* 911, 931, and 933, and

* * * * * * *

SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year by the taxpayer for cov-

erage for the taxpayer and the spouse and dependents of the taxpayer.

(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

For taxable years beginning in calendar year—	***The applicable percentage is—***
2003, 2004, and 2005	*25*
2006 and 2007	*30*
2008 and 2009	*35*
2010 and 2011	*40*
2012 and thereafter	*50.*

(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $20,000 (twice the preceding dollar amount, as adjusted under paragraph (2), in the case of a joint return) the amount which would (but for this subsection) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowed as such excess bears to $20,000 ($40,000 in the case of a joint return).

(2) ADJUSTMENTS FOR INFLATION.—

(A) IN GENERAL.—In the case of a taxable year beginning after December 31, 2003, the first $20,000 amount contained in paragraph (1) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "calendar year 2002" for "calendar year 1992" in subparagraph (B) thereof.

(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000 (or if such amount is a multiple of $500, such amount shall be rounded to the next highest multiple of $500).

(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of paragraph (1), the term "modified adjusted gross income" means adjusted gross income determined—

(A) without regard to this section and sections 911, 931, and 933, and

(B) after application of sections 86, 135, 137, 219, 221, 222, and 469.

(d) LIMITATION BASED ON SUBSIDIZED COVERAGE.—

(1) IN GENERAL.—Subsection (a) shall not apply to premiums paid for coverage of any individual for any calendar month if—

(A) for such month such individual is covered by any insurance which is advertised, marketed, or offered as long-term care insurance under any health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, and

(B) 50 percent or more of the cost of any such coverage (determined under section 4980B) for such month is paid or incurred by the employer.

(2) PLANS MAINTAINED BY CERTAIN EMPLOYERS.—A health plan which is not otherwise described in paragraph (1)(A) shall be treated as described in such paragraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

(e) COORDINATION WITH OTHER DEDUCTIONS.—Any amount taken into account under subsection (a) shall not be taken into account in computing the amount allowable as a deduction under section 162(l) or 213(a).

(f) MARRIED COUPLES MUST FILE JOINT RETURN.—

(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

(2) MARITAL STATUS.—For purposes of paragraph (1), marital status shall be determined in accordance with section 7703.

(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.

SEC. [223.] *224.* CROSS REFERENCE.

For deductions in respect of a decedent, see section 691.

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Subchapter E—Accounting periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

* * * * * * *

Subpart C—Taxable Year for Which Deductions Taken

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SEC. 469. PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.

(a) * * *

* * * * * * *

(i) $25,000 OFFSET FOR RENTAL REAL ESTATE ACTIVITIES.—

(1) * * *

* * * * * * *

(3) PHASE-OUT OF EXEMPTION.—

(A) * * *

* * * * * * *

(F) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined without regard to—

(i) * * *

* * * * * * *

(iii) the amounts allowable as a deduction under sections 219, 221, [and 222] *222, and 223*, and

* * * * * * *

Subtitle C—Employment Taxes

* * * * * * *

CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE ON WAGES

Subchapter A—Withholding from Wages

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SEC. 3402. INCOME TAX COLLECTED AT SOURCE.

(a) * * *

* * * * * * *

(f) WITHHOLDING EXEMPTIONS.—

(1) IN GENERAL.—An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(A) an exemption for himself unless he is an individual described in section [151(d)(2)] *151(e)(2)*;

* * * * * * *

(r) EXTENSION OF WITHHOLDING TO CERTAIN TAXABLE PAYMENTS OF INDIAN CASINO PROFITS.—

(1) * * *

(2) EXCEPTION.—The tax imposed by paragraph (1) shall not apply to any payment to the extent that the payment, when annualized, does not exceed an amount equal to the sum of—

(A) the basic standard deduction (as defined in section 63(c)) for an individual to whom section 63(c)(2)(C) applies, and

(B) the exemption amount (as defined in section [151(d)] *151(e)*).

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Subtitle D—Miscellaneous Excise Taxes

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CHAPTER 32—MANUFACTURERS EXCISE TAXES

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Subchapter C—Certain Vaccines

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SEC. 4132. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS RELATING TO TAXABLE VACCINES.—For purposes of this subchapter—

(1) TAXABLE VACCINE.—The term "taxable vaccine" means any of the following vaccines which are manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing:

(A) * * *

* * * * * * *

(I) Any vaccine against hepatitis A.

[(I)**]** *(J)* Any vaccine against hepatitis B.

[(J)**]** *(K)* Any vaccine against chicken pox.

[(K)**]** *(L)* Any vaccine against rotavirus gastroenteritis.

[(L)**]** *(M)* Any conjugate vaccine against streptococcus pneumoniae.

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Subtitle F—Procedure and Aministration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART II—TAX RETURNS OR STATEMENTS

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Subpart B—Income Tax Returns

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SEC. 6012. PERSONS REQUIRED TO MAKE RETURNS OF INCOME.

(a) GENERAL RULE.—Returns with respect to income taxes under subtitle A shall be made by the following:

(1)(A) * * *

* * * * * * *

(D) For purposes of this subsection—

(i) * * *

(ii) The term "exemption amount" has the meaning given such term by section **[**151(d)**]** *151(e)*. In the case of an individual described in section **[**151(d)(2)**]** *151(e)(2)*, the exemption amount shall be zero.

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SEC. 6013. JOINT RETURNS OF INCOME TAX BY HUSBAND AND WIFE.

(a) * * *

(b) JOINT RETURN AFTER FILING SEPARATE RETURN.—

(1) * * *

* * * * * * *

(3) WHEN RETURN DEEMED FILED.—

(A) ASSESSMENT AND COLLECTION.—For purposes of section 6501 (relating to periods of limitations on assessment and collection), and for purposes of section 6651 (relating to delinquent returns), a joint return made under this subsection shall be deemed to have been filed—

(i) * * *

* * * * * * *

For purposes of this subparagraph, the term "exemption amount" has the meaning given to such term by section [151(d)] *151(e)*. For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting "the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)" for "the exemption amount".

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Subtitle J—Coal Industry Health Benefits

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CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

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Subchapter B—Combined Benefit Fund

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PART II—FINANCING

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SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

(a) * * *

(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

(1) * * *

* * * * * * *

(4) ADJUSTMENTS FOR MEDICARE PRESCRIPTION DRUG SUBSIDIES.—The trustees of the Combined Fund shall decrease the per beneficiary premium for each plan year in which a subsidy payment is provided to it under section 1860H of the Social Security Act by the amount which would place the Combined Fund in the same financial position as if such subsidy payment had not been received.

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